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assets from which the debt could be collected, and the debtor:

(A) Is unable to pay any part of the debt and has no reasonable prospect of being able to do so; or

(B) Is able to pay part or all of the debt but refuses to do so, and OGC provides an opinion to the effect that the Government cannot enforce collection of a significant amount from assets or income.

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§ 1782.22 Exception authority.

The Administrator may, in individual cases, make an exception to any requirement or provision of this part which is not inconsistent with the authorizing statute or other applicable law and is determined to be in the Government's interest. Requests for exceptions must be made in writing by the State Director and supported with documentation to explain the adverse effect on the Government's interest, propose alternative course(s) of action, and show how the adverse affect will be eliminated or minimized if the exception is granted. The exception decision will be documented in writing, signed by the Administrator, and retained in the files.

§ 1782.23 Use of Rural Development loans and grants for other purposes.

(a) If, after making a loan or a grant, the Administrator determines that the circumstances under which the loan or grant was made have sufficiently changed to make the project or activity for which the loan or grant was made available no longer appropriate, the Administrator may allow the borrower or grantee to use property (real and personal) purchased or improved with the loan or grant funds, or proceeds from the sale of property (real and personal) purchased with such funds, for another project or activity that:

(1) Will be carried out in the same area as the original project or activity;

(2) Meets the criteria for a loan or grant described in section 381E(d) of the Consolidated Farm and Rural Development Act (Pub. L. 87-128), as amended; and

(3) Satisfies such additional requirements as are established by the Administrator.

(b) If the new use of the property is under the authority of another USDA Agency Administrator, the other Administrator will be consulted on whether the new use will meet the criteria of the other program. Since the new project or activity must be carried out in the same area as the original project or activity, a new rural area determination will not be necessary.

(c) Borrowers and grantees that wish to use the proceeds for other purposes may make their request through the appropriate Rural Development State Office. Permission to use this option will be exercised on a case-by-case basis on applications submitted through the State Office to the Administrator for consideration. If the proposal is approved, the Administrator will issue a memorandum to the State Director outlining the conditions necessary to complete the transaction.

§§ 1782.24-1782.99 [Reserved]

§ 1782.100 OMB Control Number.

The information collection requirements in this part are approved by the Office of Management and Budget (OMB) and assigned OMB Control Number 0572-0137.

PART 1783—REVOLVING FUNDS FOR FINANCING WATER AND WASTEWATER PROJECTS (REVOLVING FUND PROGRAM)

Subpart A—General

Sec.

1783.1 What is the purpose of the Revolving Fund Program?

1783.2 What Uniform Federal Assistance Provisions apply to the Revolving Fund Program?

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1783.5 What are the eligibility criteria for grant recipients?

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Subpart C—Revolving Loan Program Loans

1783.14 What are the eligibility criteria for RFP loan recipients?

1783.15 What are the terms of RFP loans?

1783.16 How will loans from the revolving fund be serviced?

AUTHORITY: 7 U.S.C. 1926 (a)(2)(B).

SOURCE: 69 FR 59772, Oct. 6, 2004, unless otherwise noted.

Subpart A—General

§ 1783.1 What is the purpose of the Revolving Fund Program?

This part sets forth the policies and procedures for making grants to qualified private, non-profit entities to capitalize revolving funds for the purpose of providing financing to eligible entities for pre-development costs associated with proposed water and wastewater projects or with existing water and wastewater systems, and short-term costs incurred for replacement equipment, small-scale extension of services, or other small capital projects that are not part of the regular operations and maintenance activities of existing water and wastewater systems.

§ 1783.2 What Uniform Federal Assistance Provisions apply to the Revolving Fund Program?

(a) This program is subject to the general provisions that apply to all grants made by USDA and that are set forth in 7 CFR Part 3015—Uniform Federal Assistance Regulations.

(b) This program is subject to the uniform administrative requirements that apply to all grants made by USDA to non-profit organizations and that are set forth in 7 CFR Part 3019—Uniform Administrative Requirements for Grants And Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations.

(c) This program is subject to OMB Circular No. A-122 (Revised): Cost Principles for Non-Profit Organizations.

§ 1783.3 What definitions are used in this regulation?

Administrative expenses means expenses incurred by a grant recipient that are of the type more particularly described in § 1783.12.

Applicant means a private, non-profit organization that applies for an RFP grant under this part.

CONACT means the Consolidated Farm and Rural Development Act.

Eligible entity means an entity eligible to obtain a loan, loan guarantee or grant under paragraph 1 or paragraph 2 of section 306(a) the CONACT (codified at 7 U.S.C. 1926(a)(1) and (2)).

Grant agreement means the contract between RUS and the grant recipient which sets forth the terms and conditions governing a particular grant awarded under this part.

Grant recipient means a private, non-profit entity that has been awarded a grant under this part.

Loan recipient means an eligible entity that has received an RFP loan.

Revolved funds means the cash portion of the revolving loan fund that is not composed of RFP grant funds, including cash comprising repayments of RFP loans, fees relating to RFP loans and interest collected on RFP loans.

Revolving loan fund means the loan fund established by the grant recipient to carry out the purposes of this part, such fund comprising the proceeds of an RFP grant and other related assets.

RFP means Revolving Fund Program.

RFP grant means a grant from RUS to a grant recipient under this part.

RFP loan means a loan from a grant recipient using the direct or indirect proceeds of an RFP grant awarded under this part.

Rural and rural area means a city, town or unincorporated area that has a population of no more than 10,000 inhabitants, according to the latest decennial census of the United States.

RUS means the Rural Utilities Service, a Federal agency delivering the USDA's Rural Development Utilities Program.

USDA means the United States Department of Agriculture.

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§ 1783.4 [Reserved]

Subpart B—Revolving Loan Program Grants

1783.5 What are the eligibility criteria for grant recipients?

- (a) The applicant must be a private entity.
- (b) The applicant must be organized as a non-profit entity.
- (c) The applicant must have the legal capacity and lawful authority to perform the obligations of a grantee under this part.

Example 1 to paragraph (c): If the organization is incorporated as a non-profit corporation, it must have corporate authority under state law and its corporate charter to engage in the practice of making loans to legal entities.

Example 2 to paragraph (c): If the organization is an unincorporated association, state law may prevent the organization from entering into binding contracts, such as a grant agreement.

- (d) The applicant must have sufficient expertise and experience in making and servicing loans to assure the likelihood that the objectives of this part can be achieved.

§ 1783.6 When will applications for grants be accepted?

In Fiscal Year 2004, applications will be accepted for this RFP grant program from October 6, 2004, until December 6, 2004, at which time the initial application period shall close. An applicant may withdraw, substitute, amend or supplement its application at any time prior to the closing of the initial application period. Once the initial application period has closed, all applications shall be considered final. For subsequent fiscal years, if any funds for this program are available, the Secretary will publish a notice to that effect. The notice will establish the period during which applications for such funds may be submitted for consideration.

§ 1783.7 What is the grant application process?

- (a) The applicant must complete and submit the following items to RUS to apply for a grant under this part:

(1) Application for Federal Assistance: *Standard Form 424*;

(2) Budget Information—Non-Construction Programs: *Standard Form 424A*;

(3) Assurances—Non-Construction Programs: *Standard Form 424B*;

(4) Evidence of applicant's legal existence and authority in the form of certified copies of organizational documents and a certified list of directors and officers with their respective terms;

(5) Evidence of tax exempt status, and

(6) Most recent annual audit conducted by an independent auditor.

(b) The applicant must submit a written work plan that demonstrates the ability of the applicant to make and service loans to eligible entities under this program and the feasibility of the applicant's lending program to meet the objectives of this part.

(c) The applicant should submit a narrative establishing the basis for any claims that it has substantial expertise in making and servicing loans. The Secretary will give priority to an applicant that demonstrates it has substantial experience of this type.

(d) The applicant may submit such additional information as it elects to support and describe its plan for achieving the objectives of the part.

§ 1783.8 What are the acceptable methods for submitting applications?

(a) Applications for RFP grants may be submitted by U.S. Mail. Applications submitted by mail must be addressed as follows: Rural Utilities Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., STOP 1548, Washington, DC 20250–1548. The outside of the application should be marked: “Attention: Assistant Administrator, Water and Environmental Programs.” Applications submitted by mail must be postmarked not later than the filing deadline to be considered during the period for which the application was submitted.

(b) In lieu of submitting an application by U.S. Mail, an applicant may file its application electronically by using the Federal Government's eGrants Web site (Grants.gov) at <http://www.grants.gov>. Applicants should refer

to instructions found on the Grants.gov Web site for procedures for registering and using this facility. Applicants who have not previously registered on Grants.gov should allow a sufficient number of business days to complete the process necessary to be qualified to apply for Federal Government grants using electronic submissions. Electronic submissions must be filed not later than the filing deadline to be considered during the period for which the application was submitted.

(c) The methods of submitting applications may be changed from time to time to reflect changes in addresses and electronic submission procedures. Applicants should refer to the most recent notice of funding availability for notice of any such changes. In the event of any discrepancy, the information contained in the notice must be followed.

§ 1783.9 What are the criteria for scoring applications?

(a) Applications that are incomplete or ineligible will be returned to the applicant, accompanied by a statement explaining why the application is being returned.

(b) Promptly after an application period closes, all applications that are complete and eligible will be ranked competitively based on the following scoring criteria:

(1) Degree of expertise and successful experience in making and servicing commercial loans, with a successful record, for the following number of full years:

(i) At least 1 but less than 3 years—5 points

(ii) At least 3 but less than 5 years—10 points

(iii) At least 5 but less than 10 years—20 points

(iv) 10 or more years—30 points

(2) Extent to which the work plan demonstrates a well thought out, comprehensive approach to accomplishing the objectives of this part, clearly defines who will be served by the project, clearly articulates the problem/issues to be addressed, identifies the service area to be covered by the RFP loans, and appears likely to be sustainable. Up to 40 points.

(3) Percentage of applicant contributions. Points allowed under this paragraph will be based on written evidence of the availability of funds from sources other than the proceeds of an RFP grant to pay part of the cost of a loan recipient's project. In-kind contributions will not be considered. Funds from other sources as a percentage of the RFP grant and points corresponding to such percentages are as follows:

(i) Less than 20%—ineligible

(ii) At least 20% but less than 50%—10 points

(iii) 50% or more—20 points

(4) Extent to which the goals and objectives are clearly defined, tied to the work plan, and are measurable. Up to 15 points.

(5) Lowest ratio of projected administrative expenses to loans advanced. Up to 10 points.

(6) The evaluation methods for considering loan applications and making RFP loans are specific to the program, clearly defined, measurable, and are consistent with program outcomes. Up to 20 points.

(7) Administrator's discretion, considering such factors as creative outreach ideas for marketing RFP loans to rural residents; the amount of funds requested in relation to the amount of needs demonstrated in the work plan; previous experiences demonstrating excellent utilization of a revolving loan fund grant; and optimizing the use of agency resources. Up to 10 points.

(c) All qualifying applications under this part will be scored based on the criteria contained in this section. Awards will be made based on the highest ranking applications and the amount of financial assistance available for RFP grants. All applicants will be notified of the results in writing on form AD-622.

§ 1783.10 What is the grant agreement?

RUS and the grant recipient will enter into a contract setting forth the terms and conditions governing a particular RFP grant award. RUS will furnish the form of grant agreement. No funds awarded under this part shall be disbursed to the grant recipient before the grant agreement is binding and

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RUS has received a fully executed counterpart of the grant agreement.

§ 1783.11 What is the revolving loan fund?

The grant recipient shall establish and maintain a revolving loan fund for the purposes set forth in § 1783.12. The revolving loan fund shall be comprised of revolving loan fund grant funds and the grant recipient's contributed funds. All revolving loan fund loans made to loan recipients shall be drawn from the revolving loan fund. All revolving loan fund loans shall be serviced and the revolving loan fund maintained, in accordance with this part and applicable law.

§ 1783.12 What are eligible uses of grant proceeds?

(a) Grant proceeds shall be used solely for the purpose of establishing the revolving loan fund to provide loans to eligible entities for:

(1) Pre-development costs associated with proposed water and wastewater projects or with existing water and wastewater systems, and

(2) Short-term costs incurred for replacement equipment, small-scale extension of services, or other small capital projects that are not part of the regular operations and maintenance activities of existing water and wastewater systems.

(b) A grant recipient may not use grant funds in any manner inconsistent with the terms of the grant agreement.

§ 1783.13 What administrative expenses may be funded with grant proceeds?

RFP grant funds may not be used for any purposes not described in § 1783.12, including, without limitation, payment or reimbursement of any of the grant recipient's administrative costs or expenses. Administrative expenses may, however, be paid or reimbursed from revolving loan fund assets that are not RFP grant funds, including revolved funds and cash originally contributed by the grant recipient.

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Subpart C—Revolving Fund Program Loans

§ 1783.14 What are the eligibility criteria for RFP loan recipients?

(a) A loan recipient must be an eligible entity as defined in § 1783.3.

(b) The loan recipient must be unable to finance the proposed project from their own resources or through commercial credit at reasonable rates and terms.

(c) The loan recipient must have or will obtain the legal authority necessary for owning, constructing, operating and maintaining the proposed service or facility, and for obtaining, giving security for, and repaying the proposed loan.

(d) The project funded by the proceeds of an RFP loan must be located in, or the services provided as the result of such project must benefit, rural areas.

§ 1783.15 What are the terms of RFP loans?

(a) RFP loans under this part—

(1) Shall have an interest rate that is determined by the grant recipient and approved by RUS;

(2) Shall have a terms not to exceed 10 years; and

(3) Shall not exceed the lesser of \$100,000 or 75 percent of the total cost of a project. The total outstanding balance for all loans under this program to any one entity shall not exceed \$100,000.

(b) The grant recipient must set forth the RFP loan terms in written documentation signed by the loan recipient.

(c) Grant recipients must develop and use RFP loan documentation that conforms to the terms of this part, the grant agreement, and the laws of the state or states having jurisdiction.

§ 1783.16 How will the loans given from the revolving fund be serviced?

The grant recipient shall be responsible for servicing all loans, to include preparing loan agreements, processing loan payments, reviewing financial statements and debt reserves balances, and other responsibilities such as enforcement of loan terms. Loan servicing will be in accordance with the

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work plan approved by the Agency when the grant is awarded for as long as any loan made in whole or in part with Agency grant funds is outstanding.

PART 1785—LOAN ACCOUNT COMPUTATIONS, PROCEDURES AND POLICIES FOR ELECTRIC AND TELEPHONE BORROWERS

Subpart A [Reserved]

Subpart B—RUS Cushion of Credit Account Computations and Procedures

Sec.

1785.66 General.

1785.67 Definitions.

1785.68 Establishing an RUS cushion of credit payment account.

1785.69 Cushion of credit payment account computations.

1785.70 Application of RETRF cushion of credit payments.

AUTHORITY: 7 U.S.C. 901 et seq.; Title I, Subtitle D, sec. 1403, Omnibus Budget Reconciliation Act of 1987, Pub. L. 100-203; Pub. L. 103-354, 108 Stat. 3178 (7 U.S.C. 6941 et seq.).

Subpart A [Reserved]

Subpart B—RUS Cushion of Credit Account Computations and Procedures

SOURCE: 54 FR 13669, Apr. 5, 1989, unless otherwise noted.

§ 1785.66 General.

This subpart B sets forth policies and procedures on the RUS cushion of creditpayments program. The cushion of credit payments program will be maintained only for insured loans evidenced by obligations of the Fund. A subaccount within the Fund is hereby established for purposes of promoting rural economic development. It shall be known as the "Rural Economic Development Subaccount." The assets of the subaccount shall be obtained from crediting (on a monthly basis) a sum determined by multiplying the outstanding cushion of credit payments made after October 1, 1987, by the difference (converted on a monthly basis) between the average weighted interest

rate paid on outstanding certificates of beneficial ownership issued by the Fund and the 5 percent rate of interest provided to borrowers on cushion of credit payments, repayment of loans made pursuant to Section 313 of the Act, and other sources as provided by law. This subaccount shall be used to provide grants or zero interest loans to borrowers under the Act for the purpose of promoting rural economic development.

§ 1785.67 Definitions.

Accumulated (deferred) interest means interest allowed to accumulate up to, and including, the basis date of RUS notes covering loans approved before June 5, 1957. The accumulated interest is payable in equal periodic installments over the remaining life of the notes.

Act means the Rural Electrification Act of 1936, as amended (7 U.S.C. 901 et seq.).

Advance payment means a voluntary unscheduled payment on an RUS note, made prior to October 2, 1987, credited to the advance payment account of a borrower.

Cushion of Credit Payment means a voluntary unscheduled payment on an RUS note made after October 1, 1987, credited to the cushion of credit account of a borrower.

Current interest means interest payable periodically as it accrues.

Fund means the Rural Electrification and Telephone Revolving Fund established pursuant to the Act.

Interest credit means interest earned on balances in advance payment or cushion of credit accounts. Since the periodic installments are established by the terms of the notes, the interest credits cannot serve to change the total amount of each installment; therefore, an amount equal to the interest credits is added to the principal installment due. On receipt of the full installments, amounts equal to the interest credits (the principal offsets) are added to the respective advance payment accounts.

Prepayment means a voluntary unscheduled payment which the borrower instructs RUS to apply directly and immediately to the principal of an RUS note.